IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 24207 of 2004

Between:

M/s. Shanti Alloys Private Limited, Plot No.57, Industrial Estate, Thumakunta (V), Hindupur (M), Anantapur District, Rep. by its managing Director, Athaur Rahman.

..... PETITIONER

AND

1 A.P. Pollution Control Board, Paryavaran Bhavan, A-3, I.E., Sananthnagar, Hyderabad. Rep. by its Member Secretary.
2 The Joint Chief Environmental Engineer, A.P. Pollution Control Board, Zonal Office, Nampally, Hyderabad.
3 The Superintending Engineer, Operation, Central Power Distribution Company of

A.P. Limited, A.P. Transco, Ananthapur district, Anantapur.
4 The Divisional Engineer, Operation, Central Power Distribution Company of A.P. Limited, A.P. Transco, Hindupur, District Anantapur.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the order No.442/PCB/TF-HYD/2004-3244 dated 14-12-2004 of the 1st respondent as highly illegal, arbitrary, unjust contrary to the Principles of Natural Justice and Section 21 of Air (Prevention and Control of Pollution) Act, 1981

and consequently set aside the same and pass such other order or orders.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondent Nos.1 and 2: MR.E.KALYAN RAM

Counsel for the Respondent Nos.3 and 4: Smt. M. Vinobha Devi

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

Though, against the order impugned in the writ petition dated 14.12.2004, passed by the 1st respondent-Board, appeal is provided, but, challenge here is violation of principles of natural justice.

Notice for legal hearing was served upon the petitioner of which petitioner got information through EE, A.P.P.C.B./Kurnool and immediately on 27.11.2004, request in writing was submitted by the petitioner expressing its inability to appear on 29.11.2004 with a request to give some other reasonable date. The grievance of the petitioner is that the respondent-Board instead of doing so, passed the impugned order.

When the law provides for providing legal hearing, it is not a mere formality, but, is a statutory requirement, which has to be complied with. May be that according to the Board, despite show cause notice, the petitioner has not made any compliance, but before passing any final order, it is absolutely mandatory to provide legal hearing and in the instant case, a short notice of two days was given and when adjournment was sought to give a reasonable time, hurriedly, the impugned order was passed. There being thus violation of principles of natural justice, the writ petition is allowed. The impugned order is set aside. The petitioner will appear before the Task Force

Committee of the 1st respondent-Board at Hyderabad on 18.1.2005 for legal hearing. Thereafter, the respondent-Board will proceed to take appropriate decision in accordance with law.

The writ petition is accordingly allowed. No costs.

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DEVINDER GUPTA, CJ

Date: 29th December, 2004

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M. NARAYANA REDDY,J

Pnb

To

1 The Member Secretary, A.P. Pollution Control Board, Paryavaran

Bhavan, A-3, I.E., Sananthnagar, Hyderabad.
2 The Joint Chief Environmental Engineer, A.P. Pollution Control Board, Zonal Office, Nampally, Hyderabad.
3 The Superintending Engineer, Operation, Central Power Distribution

Company of A.P. Limited, A.P. Transco, Ananthapur district,

Anantapur.
4 The Divisional Engineer, Operation, Central Power Distribution

Company of A.P. Limited, A.P. Transco, Hindupur, District Anantapur.

5 Two C.D. copies